

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2005-203-C - ORDER NO. 2005-464
SEPTEMBER 7, 2005

IN RE: Application of Rock Hill Telephone)	
Company, Lancaster Telephone Company,)	ORDER APPROVING
and Fort Mill Telephone Company, all d/b/a)	ALTERNATIVE
Comporium Communications for Approval of)	REGULATION PLAN
Alternative Regulation Plan Pursuant to S.C.)	
Code § 58-9-576.)	

This matter comes before the Public Service Commission of South Carolina (“Commission”) upon the request of Rock Hill Telephone Company, Lancaster Telephone Company, and Fort Mill Telephone Company, all d/b/a Comporium Communications (collectively, the Comporium Companies) for approval of an Alternative Regulation Plan (the “Plan”), pursuant to S.C. Code Ann. § 58-9-576.

S.C. Code Ann. § 58-9-576(A) provides in part:

Any LEC may elect to have rates, terms, and conditions determined pursuant to the plan described in subsection (B), if the commission: (1) has approved a local interconnection agreement in which the LEC is a participant with an entity determined by the commission not to be affiliated with the LEC, (2) determines that another provider’s service competes with the LEC’s basic local exchange telephone service, or (3) determines that at least two wireless providers have coverage generally available in the LEC’s service area and that the providers are not affiliates of the LEC.

On July 1, 2005, the Comporium Companies filed an Alternative Regulation Plan. Accompanying the Plan were the Affidavits of Matthew L. Dosch and Robert Thomas Joslin, with attachments as described below.

The Plan was filed pursuant to S.C. Code Ann. § 58-9-576. The Comporium Companies are under common ownership and management and, therefore, jointly submitted the Plan. According to the Plan, there are at least two wireless providers with coverage generally available in the service areas of the Comporium Companies that are not affiliated with any of the companies, and the Comporium Companies therefore elect to have the rates, terms, and conditions of their services determined pursuant to the Plan, which they contend conforms with the plan described in S.C. Code Ann. § 58-9-576(B). Specifically, the Comporium Companies state that each of the following wireless carriers, none of which is affiliated with any of the Comporium Companies, has wireless coverage generally available in their service areas: ALLTEL Communications, Inc. (“ALLTEL”), Cricket Communications, Inc. (“Cricket”), Nextel South Corp. (“Nextel”), Sprint Spectrum, LP, d/b/a Sprint PCS (“Sprint PCS”), Triton PCS Operating Co., LLC, d/b/a SunCom (“SunCom”), and Cellco Partnership, d/b/a Verizon Wireless (“Verizon”). In addition, each of the Comporium Companies has a Resale Agreement with CAT Communications, Inc.

Along with the proposed Plan, the Comporium Companies filed the Affidavits of Matthew L. Dosch, Vice-President of External Affairs for Rock Hill Telephone Company, Fort Mill Telephone Company, and Lancaster Telephone Company, and Robert Thomas Joslin, President and founding partner of EnVision Wireless, Inc. Mr.

Dosch stated under oath that there are a number of wireless providers that have coverage generally available in the incumbent local service areas served by the Comporium Companies, including ALLTEL, Nextel, Sprint PCS, SunCom, and Verizon, and that none of these wireless service providers is affiliated with the Comporium Companies. Attached to Mr. Dosch's Affidavit were wireless coverage maps obtained from each of these wireless service providers demonstrating general coverage throughout the Comporium Companies' service areas. Mr. Dosch also explained that drive tests were conducted by Robert Joslin for two of the wireless service providers - ALLTEL and Verizon. According to Mr. Joslin's sworn statement, and as shown on the maps attached to his Affidavit, the results of the drive tests also demonstrate that ALLTEL and Verizon have generally available coverage and a good quality of service throughout the Comporium Companies' service areas.

Notice of the filing of the Plan was published in a newspaper of general circulation in the affected area. A Petition to Intervene was filed by RedSquare Corporation, however, the Petition took no position with regard to the merits of the case. No other Petitions to Intervene or Protests were filed. The Office of Regulatory Staff ("ORS") is a party to this matter pursuant to S.C. Code Ann. § 58-4-10(B). On August 1, 2005, ORS filed a letter with the Commission stating that ORS had reviewed the documentation provided by the Comporium Companies and, in addition, had independently reviewed information which confirms the general availability of non-affiliated cellular services in those companies' service areas. The letter concluded by

stating that ORS found no evidence to contradict the statement of Mr. Joslin and therefore had no basis to oppose the filing.

FINDINGS AND CONCLUSIONS

1. This Commission has the authority and the obligation, pursuant to S.C. Code Ann. § 58-9-576(A), to make a determination as to whether the Comporium Companies meet the requirements of any portion of S.C. Code Ann. § 58-9-576(A) so as to entitle the Comporium Companies to elect alternative regulation under S.C. Code Ann. § 58-9-576.

2. This Commission also has the authority and obligation to review the Plan submitted by the Comporium Companies to ensure that it conforms to the requirements of the alternative regulation plan described in S.C. Code Ann. § 58-9-576(B).

3. The Comporium Companies have furnished the necessary information for the Commission to make a determination regarding whether those companies meet the requirements of S.C. Code Ann. § 58-9-576(A)(3) so as to entitle them to elect alternative regulation under S.C. Code Ann. § 58-9-576.

4. We find, based on the evidence submitted by the Comporium Companies in the form of the sworn Affidavits of Dosch and Joslin and accompanying exhibits, that at least two wireless providers have coverage generally available in the Comporium Companies' service areas and that the providers are not affiliates of those LECs. Thus, we find that the Comporium Companies have met the requirements of S.C. Code Ann. § 58-9-576(A)(3).

5. The Comporium Companies have met the requirements of S.C. Code Ann. § 58-9-576(A) and, therefore, may elect to have rates, terms, and conditions determined pursuant to an alternative regulation plan as described in S.C. Code Ann. § 58-9-576(B).

7. We have reviewed the Plan submitted by the Comporium Companies, and find that it conforms to the provisions of S.C. Code Ann. § 58-9-576(B).

8. Pursuant to S.C. Code Ann. § 58-9-576(B)(1), the Plan “becomes effective on the date specified by the electing LEC, but in no event sooner than thirty days after the notice is filed with the Commission.” The Comporium Companies specified that the effective date of the Plan is August 1, 2005.

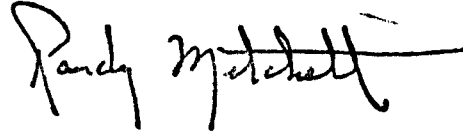
9. A copy of the Plan is attached hereto and incorporated by reference herein.

IT IS THEREFORE ORDERED THAT:

1. The Alternative Regulation Plan filed by the Comporium Companies, and attached hereto, is effective as of August 1, 2005.

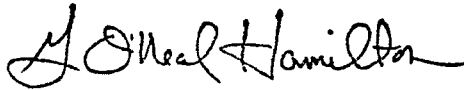
2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Randy Mitchell, Chairman

ATTEST:



G. O'Neal Hamilton, Vice Chairman

(SEAL)

**ROCK HILL TELEPHONE COMPANY,
LANCASTER TELEPHONE COMPANY,
AND FORT MILL TELEPHONE COMPANY,
ALL D/B/A COMPORIUM COMMUNICATIONS
ALTERNATIVE REGULATION PLAN
PURSUANT TO S.C. CODE ANN. § 58-9-576**

Filed July 1, 2005
Effective August 1, 2005

1. Introduction

Rock Hill Telephone Company d/b/a Comporium Communications ("Rock Hill"), Lancaster Telephone Company d/b/a Comporium Communications ("Lancaster"), and Fort Mill Telephone Company d/b/a Comporium Communications ("Fort Mill") (collectively referred to herein as the "Comporium Companies") are local exchange carriers operating in the State of South Carolina. Because they are under common ownership and management, the Comporium Companies are jointly submitting this Alternative Regulation Plan.

Pursuant to S.C. Code Ann. § 58-9-576(A), any local exchange carrier ("LEC") may elect to have the rates, terms, and conditions of its services determined pursuant to the alternative regulation plan described in S.C. Code Ann. § 58-9-576(B), provided the Public Service Commission of South Carolina ("Commission") (1) has approved a local interconnection agreement in which the LEC is a participant with an entity determined by the Commission not to be affiliated with the LEC, (2) determines that another provider's service competes with the LEC's basic local exchange telephone service, or (3) determines that at least two wireless providers have coverage generally available in the LEC's service area and that the providers are not affiliates of the LEC. There are at least two wireless providers with coverage generally available in the service areas of Rock Hill, Lancaster, and Fort Mill that are not affiliated with any of the companies, as specified herein. Rock Hill, Lancaster, and Fort Mill hereby elect to have the rates, terms, and conditions of their services determined pursuant to the alternative regulation plan described herein (the "Plan"), which conforms with the plan described in S.C. Code Ann. § 58-9-576(B).

As of July 1, 2005, the date of notice of election of the Plan, there is wireless coverage generally available in Rock Hill's, Lancaster's, and Fort Mill's service areas from the following wireless carriers, none of which is affiliated with any of the Comporium Companies:

ALLTEL Communications, Inc. ("ALLTEL")
Cricket Communications, Inc. ("Cricket")
Nextel South Corp. ("Nextel")
Sprint Spectrum, LP, d/b/a Sprint PCS ("Sprint PCS")
Triton PCS Operating Co., LLC, d/b/a SunCom ("SunCom")

Cellco Partnership, d/b/a Verizon Wireless ("Verizon")

In addition, each of the Comporium Companies has a Resale Agreement with CAT Communications, Inc.

The Plan described herein is in lieu of other forms of regulation including, but not limited to, rate of return or rate base monitoring or regulation.

2. Effective Date

The effective date of the Plan is August 1, 2005, which is not sooner than thirty days after filing with the Commission notice of election of the Plan. The Plan will apply to all local services offered by Rock Hill, Lancaster, and Fort Mill that are regulated by the Commission.

3. The Plan

- a. As of July 1, 2005, the date of notice of election of the Plan, existing rates, terms, and conditions for the services provided by Rock Hill, Lancaster, and Fort Mill contained in the companies' then-existing tariffs and contracts are considered just and reasonable.
- b. Rock Hill, Lancaster, and Fort Mill are "small LECs" for purposes of S.C. Code Ann. § 58-9-576(B)(3). S.C. Code Ann. § 58-9-10(14) defines "small LEC" to mean a "rural telephone company" as defined in the federal Telecommunications Act of 1996.
- c. Rock Hill's, Lancaster's, and Fort Mill's flat-rated local exchange services for residential and single-line business customers are priced below the statewide average local service rates for those services, weighted by number of access lines, as shown in Rock Hill's, Lancaster's, and Fort Mill's local service tariffs on file with the Commission. Therefore, pursuant to S.C. Code Ann. § 58-9-576(B)(3), the requirements of S.C. Code Ann. § 58-9-576(B)(3) and (4) shall be waived by the Commission until such time as the respective companies' residential and single-line business rates are priced at the statewide average local service rates for those services. At such time as Rock Hill's, Lancaster's, and Fort Mill's residential and single-line business rates, or either of those rates, equals the statewide average local service rate for that service or those services, the rate for the service that is priced at the statewide average rate shall be subject to the provisions of S.C. Code Ann. § 58-9-576(B)(3) and (4); i.e., that rate shall be frozen for a period of two years from the date at which it is set at the statewide average rate and, after the expiration of the two-year period, may be adjusted on an annual basis pursuant to an inflation-based index.
- d. Rock Hill, Lancaster, and Fort Mill may increase rates for flat-rated local exchange services for residential and single-line business customers if they are below the statewide average rates, in accordance with S.C. Code Ann. § 58-9-576(B)(3).

- e. Rock Hill, Lancaster, and Fort Mill will set rates for all other services on a basis that does not unreasonably discriminate between similarly situated customers. All such rates are subject to a complaint process for abuse of market position in accordance with Commission rules and procedures.
- f. Except when exempted by law, Rock Hill, Lancaster, and Fort Mill will file tariffs for price changes or new services with respect to their local exchange services (including residential and single-line business services) that set out the terms and conditions of the services and the rates for such services. Tariffs will be presumed valid and become effective seven days after filing for price decreases and fourteen days after filing for price increases and new services.
- g. As provided for in S.C. Code Ann. § 58-9-576(B), the Plan applies in lieu of rate of return or rate base regulation. Thus, the procedures set forth above for changes in rates are to be used in lieu of traditional rate-of-return procedures for determining rates, terms, and conditions for service, as found in S.C. Code Ann. §§ 58-9-510 through -570 and in 26 Code Ann. Regs. 103-834(A)(3).